



WEB COPY



W.P.No.1921 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.12.2023

CORAM :

THE HONOURABLE DR.JUSTICE ANITA SUMANTH

W.P.No.1921 of 2021

and

W.M.P.No.2167 of 2021 & 12384 of 2022

Dr.Jiz Mary Santhosh

.. Petitioner

vs

1.The Dean

Madras Medical College,
Chennai - 600 003.

2.The Director of Medical Education,

No.162, EVR Periyar Salai,
Kilpauk, Chennai - 600 010.

.. Respondents

Petition filed under Article 226 of the Constitution of India praying to issue a writ of mandamus, ordaining the respondents jointly and severally to return my original MBBS and other certificates viz., (i) MBBS Degree Certificate (ii) Tamil Nadu Medical Council Registration Certificate (iii) Internship Certificate (iv) Course cum Conduct Certificate (v) 12th Standard Mark Sheet and (vi) MBBS Mark sheet of final year, without insisting any security amount from me.

For Petitioner : Mr.C.S.K.Sathish

For Respondents : Mr.UM.Ravichandran,
Special Government Pleader

ORDER

The petitioner had completed her MBBS in December, 2012 from Sri Ramachandra University, Chennai. Thereafter, she had appeared for All India Post Graduate Medical Entrance Examination



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in December, 2014 and was allotted M.S.(Ophthalmology) at Madras Medical College, Chennai.

2. At the time of admission to PG Course, the Director of Medical Education (R2) had required the submission of various certificates to Dean, Madras Medical College (R1). Accordingly, the following certificates (i) MBBS Degree Certificate (ii) Tamil Nadu Medical Council Registration Certificate (iii) Internship Certificate (iv) Course cum Conduct Certificate (v) 12th Standard Mark Sheet and (vi) MBBS Mark sheet of final year, had been submitted by the petitioner and are currently in possession of R1.

3. The petitioner has completed the course in 2018. Being a candidate selected under All India Quota (AIQ), the petitioner is not subject to the Rules and Regulations of the State in respect of Medical Education, including the necessity for submission of a bond. This position, Mr.Ravichandran, concedes, is an admitted one. In line with this position, the petitioner was never asked to execute a bond. However, surprisingly under letter dated 3.08.2018 she was appointed on temporary basis as Assistant Medical Surgeon, Kalasapakkam, Thiruvannamalai District for a period of two years.

4. The petitioner was asked to report for duty within fifteen days. When she had raised a query with regard to the



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posting, she states that she has been informed by the respondents that it has been sent in error and was unnecessary as she has not executed any bond. Despite the aforesaid statement, a show-cause notice was issued on 21.06.2019 alleging violation of contractual bond conditions. The petitioner has admittedly not bothered to reply to the same. On 09.01.2020, when she was asked for the return of her certificates, R1 refused, claiming lien over the same in light of alleged violation of bond conditions.

5. The sum and substance of the petitioner's submissions are that (i) Her admission was secured under AIQ (ii) She was not required to execute a bond (iii) The respondents cannot, thus claim any leave over her original certificates, citing violation of bond conditions.

6. She relies on a decision of the First Bench in W.P.No.20800 of 2017 dated 06.10.2020 forming part of order passed in W.A.No.799 of 2019 batch, wherein, the Bench reiterates the position that in the absence of a bond having to be executed, the certificates of a candidate cannot be withheld and must be returned. She had made a representation on 02.12.2020 relying on the aforesaid order and is now constrained to approach this Court seeking mandamus in light of continued inaction by the respondents.



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7. Several opportunities have been granted to the respondents to file their counter, including a last opportunity, to no avail. Learned SGP today states that no counter is proposed to be filed and the factual assertions in the writ petition thus stand uncontroverted. The admitted position is that the petitioner has indeed been selected under AIQ, has not executed a bond and is thus entitled to the return of certificates in view of the order passed by the First Bench on 06.10.2020 in W.A.No.799 of 2019 and batch. In fact, learned SGP is fair and does not raise any dispute on the applicability of the decision and would accede to the position that mandamus as sought for is liable to be issued.

8. In light of the detailed discussion as above, mandamus is issued to R1 to return the original certificates as well as all other certificates submitted by the petitioner at the time of admission under Ref.No.0049/ME5(2)/2020, upon the petitioner presenting herself before R1 with a copy of this order.

9. Writ petition stands allowed. No costs. Connected miscellaneous petitions are closed.

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Index:Yes/No
Neutral Citation:Yes/No
ssm



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DR. ANITA SUMANTH,J.

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